

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA )

v. )

CRIMINAL NO. 05-cr-30042-MAP

CESAR CRUZ, )

and )

RICARDO DIAZ, )

Defendants. )

THE GOVERNMENT'S AND THE DEFENDANT'S STATUS  
REPORT PURSUANT TO LOCAL RULE 116.5(A)

The United States of America, by Michael J. Sullivan, United States Attorney for the District of Massachusetts, and Attorney Joseph Franco, counsel for Cesar Cruz, and Attorney Terry Nagle, Attorney for Ricardo Diaz, hereby submit the following status report pursuant to Local Rule 116.5(A) and Magistrate Judge Neiman's written orders.

1. The parties agree that this is not a complex case and therefore relief from the timing requirements imposed by Local Rule 116.3 is unnecessary.

2. The government has provided automatic discovery to the defendant pursuant to Fed.R.Crim.P. 16.1 (C) and 116.2 of the Local Rules of the United States to the defendant. Additional discovery will be provided to counsel upon receipt of the discovery by the undersigned U.S. Attorney. For example, the FBI is in the process of copying numerous recording made during this investigation. The government will forward the copies relevant

to the above captioned upon receipt from the FBI. The government has requested reciprocal discovery pursuant to Fed.R.Crim.P. 16(B)(1)(C).

3. The parties agree that it is premature for a motion date to be established under Fed.R.Crim.P. 12(c).

4. The parties agree that the time from the Defendant's respective initial appearance, June 15, 2005, through the initial status date, August 2, 2005 is excludable from the Speedy Trial Act in the interests of justice pursuant to 18 U.S.C. Section 3161(h)(8)(A) and Local Rule 112.2(A)(1), (2), and (3). This case involves audio and video recordings of which both counsel for Ricardo Diaz have experienced difficulties accessing on his computer. Accordingly, the government requests that the Court issue an order indicating that the time from initial appearance to the present is excludable pursuant to Local Rule 112.2(B).

5. The parties are unclear at present whether this case will be resolved pursuant to a trial or a change of plea.

6. The parties agree that it is premature to establish a final status conference at this time.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Paul Hart Smyth

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Paul Hart Smyth  
Assistant U.S. Attorney

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Joseph Franco, Esq.  
Counsel for Cesar Cruz

Terry Nagle, Esq.  
Counsel for Ricardo Diaz